

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.	: Not yet assigned	Confirmation No.	: Not yet assigned
Applicant(s)	: Janel BIRK et al.		
Filed	: December 30, 2005		
Title	: IMPLANTABLE DEVICE FASTENING SYSTEM AND METHODS OF USE		
TC/A.U.	: Not yet assigned		
Examiner	: Not yet assigned		
Docket No.	: 80337-0034 US		
Customer No.	: 41913		

**Mail Stop PCT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**INFORMATION DISCLOSURE STATEMENT  
UNDER 37 C.F.R. § 1.97(b)**

Sir:

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the document(s) listed on the attached Form PTO-1449, which the Examiner may deem relevant to the patentability of the above-identified application.

A copy of Documents A1-A3 is not being provided since copies should have been provided directly by WIPO under an exchange program between the USPTO, the EPO, and the JPO. The absence of a translation or English-language counterpart document does not relieve the PTO from its duty to consider any submitted documents (37 C.F.R. §1.98 and MPEP § 609).

A copy of Documents A4-A22 is not being provided since the USPTO has waived the requirements under 37 CFR 1.98 (a)(2)(I) to submit copies of U.S. patents and published applications when citing and submitting an Information Disclosure Statement in a patent application filed after June 30, 2003, and International Applications that have entered the National Stage under 37 U.S.C. § 371 after June 30, 2003. Accordingly, copies of these types of documents are not being supplied in connection with this application. Reference is made to PRE-OG Notice from the Office of Patent Legal Administration dated July 25, 2003, stating that an Information Disclosure Statements may be filed without copies of U.S. patents and published applications for patent applications filed after June 30, 2003.

This information disclosure statement is being filed within one of the following time periods: within three months of the filing date of this application other than a continued prosecution application, or within three months of the date of entry into the national stage of

this international application, or before the mailing date of a first Office Action on the merits, or before the mailing of a first Office action after the filing of a request for continued examination under §1.114. Therefore, no certification under 37 C.F.R. § 1.97(e) or fee under 37 C.F.R. §1.17(p) is required.

Applicant respectfully requests that the Examiner consider the listed documents and evidence that consideration by making appropriate notations on the attached PTO-1449.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission the listed documents are material or constitute "prior art." If the Examiner applies the documents as "prior art" against any claims in the application and Applicant determines that the cited documents do not constitute "prior art" under United States law, Applicant reserves the right to present to the Office the relevant facts and law regarding the appropriate status of such document.

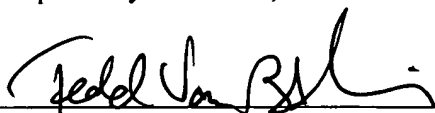
Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should the documents be applied against the claims of the present application.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-3024. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

Dated: December 30, 2005

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<b>FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE (Modified) PATENT AND TRADEMARK OFFICE</b>  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use several sheets if necessary)	<b>ATTY. DOCKET NO.</b>  80337-0034 US	<b>APPLICATION NO.</b> <b>80/382954</b> Not assigned
	<b>APPLICANTS</b>  Janel BIRK et al.	
	<b>FILING DATE</b>  December 30, 2005	<b>GROUP</b>  Not yet assigned

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		PATENT NUMBER	ISSUE DATE	PATENTEE	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	A1	5,833,698	11/10/1998	Hinchliffe et al.			
	A2	6,485,496 B1	11/26/2002	Suyker et al.			
	A3	5,713,911	02/03/1998	Racenet et al.			
	A4	5,695,504	12/09/1997	Gifford, III et al.			
	A5	5,817,113	10/06/1998	Gifford, III et al.			
	A6	5,904,697	05/18/1999	Gifford, III et al.			
	A7	6,171,321 B1	01/09/2001	Gifford, III et al.			
	A8	6,443,965 B1	09/03/2002	Gifford, III et al.			
	A9	6,371,965 B2	04/16/2002	Gifford, III et al.			
	A10	6,387,105 B1	05/14/2002	Gifford, III et al.			
	A11	6,491,705 B2	12/10/2002	Gifford, III et al.			
	A12	6,565,582 B2	05/20/2003	Gifford, III et al.			
	A13	6,491,704 B2	12/10/2002	Gifford, III et al.			
	A14	6,451,034 B1	09/17/2002	Gifford, III et al.			
	A15	6,517,556 B1	02/11/2003	Monassevitch			
	A16	6,443,957 B1	09/03/2002	Addis			
	A17	6,419,696 B1	07/16/2002	Ortiz et al.			
	A18	6,193,734 B1	02/27/2001	Bolduc et al.			
	A19	6,048,309	04/11/2000	Flom et al.			
	A20	5,391,156	02/21/1995	Hildwein et al.			
	A21	2003/0045902 A1	03/06/2003	Weadock			
	A22	2003/0100910 A1	05/29/2003	Gifford, III et al.			

## FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	PUBLISHED DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							Yes	No

10/562954

## NON PATENT LITERATURE DOCUMENTS

IAP20 Rec'd PCT/PTO 30 DEC 2005

Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), Title of the item (book, magazine, journal, serial symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
	C1	International Search Report dated July 14, 2005 for International Application No. PCT/US2005/001958
	C2	"SHAPE MEMORY ALLOYS: PROPERTIES AND BIOMEDICAL APPLICATIONS", Reprinted from JOM, A Publication of The Minerals, Metals & Materials Society, Vol. 52, No. 10, October 2000, pp. 36-44, available at <a href="http://www.tms.org/pubs/journals/JOM/jom.html">http://www.tms.org/pubs/journals/JOM/jom.html</a>
	C3	REVIEW OF SHAPE MEMORY ALLOYS MEDICAL APPLICATIONS IN RUSSIA, by V. BRAILOVSKI and F. TROCHU, Published in Bio-Medical of Materials & Engineering Vol. 6, No. 4, pp. 291-298 (1996)
	C4	SHAPE MEMORY ALLOYS – MEDICAL APPLICATIONS, by TONY ANSON, Source: Materials World, Vol. 7, No. 12, pp. 745-747, December 1999, available at <a href="http://www.azom.com/details.asp?ArticleID=134">http://www.azom.com/details.asp?ArticleID=134</a>
EXAMINER		DATE CONSIDERED
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.		

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